

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARILYN RAMOS NERA
a.k.a. MARILYN RAMOS
a.k.a. MARILYN R. ANDERSEN
117 North 5th Street
La Puente, CA 91744

Registered Nurse License No. 636526

Respondent

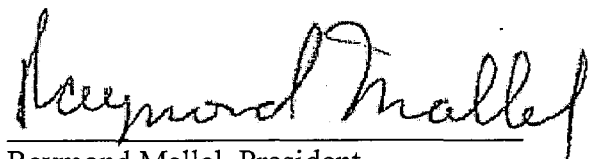
Case No. 2012-327

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **January 30, 2013.**

IT IS SO ORDERED **December 31, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-327

12 **MARILYN RAMOS NERA**
13 **aka MARILYN RAMOS**
aka MARILYN R. ANDERSEN
14 117 North 5th St.
La Puente, CA 91744

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER
FOR PUBLIC REPROVAL
[Bus. & Prof. Code § 495]

15 **Registered Nurse License No. 636526**

16 Respondent.
17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the
22 Board of Registered Nursing, Department of Consumer Affairs, State of California. She brought
23 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
24 Attorney General of the State of California, by and through Armando Zambrano, Deputy
25 Attorney General.

26 2. Marilyn Ramos Nera, also known as Marilyn Ramos, and also known as Marilyn R.
27 Andersen ("Respondent") is represented in this proceeding by defense attorney Frederick William
28 DeLisio, whose business address of 1851 East 1st Street, Suite 857, Santa Ana, CA 92705.

1 3. On or about April 26, 2004, the Board of Registered Nursing issued Registered Nurse
2 License Number 636526 to Marilyn Ramos Nera, aka Marilyn Ramos, aka Marilyn R. Andersen.
3 The Registered Nurse License was in full force and effect at all times relevant to the charges in
4 Accusation No. 2012-327. The license will expire on January 31, 2014, unless renewed.

5 **JURISDICTION**

6 4. On November 23, 2011, Accusation No. 2012-327 was filed before the Board of
7 Registered Nursing ("Board"), and is currently pending against Respondent. The Accusation and
8 all other statutorily required documents were properly served on Respondent on November 23,
9 2011. Respondent timely filed a Notice of Defense contesting the Accusation. A copy of
10 Accusation No. 2012-327 is attached as Exhibit A and incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with her counsel, and understands the
13 charges and allegations in Accusation No. 2012-327. Respondent has also carefully read, fully
14 discussed with her counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the accusation; the right to be represented by counsel at
18 her own expense; the right to confront and cross-examine the witnesses against her; the right to
19 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
20 compel the attendance of witnesses and the production of documents; the right to reconsideration
21 and court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 2012-327.

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

10. The Respondent is admitting responsibility at an early stage in the proceedings and has not been the subject of prior license discipline by the Board of Registered Nursing.

CONTINGENCY

11. This Stipulated Settlement and Disciplinary Order shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for the Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board of Registered Nursing regarding this Stipulated Settlement and Disciplinary Order, without notice to or participation by Respondent or her counsel. By signing the Stipulated Settlement, the Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the Stipulated Settlement prior to the time that the Board of Registered Nursing considers and acts upon it. If the Board of Registered Nursing fails to adopt this Stipulated Settlement as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board of Registered Nursing shall not be disqualified from further action by having considered this matter.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board of Registered Nursing may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Registered Nurse License No. 636526 issued to Marilyn Ramos Nera, aka Marilyn Ramos, aka Marilyn R. Andersen ("Respondent") shall be publicly reprovved by way of a letter from the Interim Executive Officer of the Board of Registered Nursing ("Complainant"). The letter of public reprovall shall be issued as set forth herein and shall be in the same form as the letter attached as Exhibit B to this stipulation.

1. In consideration for entering into this Stipulated Settlement ("Agreement"), the Respondent hereby waives any right to challenge the legal effect of this agreement, by way of petition for reconsideration, petition for writ of mandamus, appeal, or otherwise, and further waives any other legal claim or defense, which she may have asserted, including, but not limited to, any time based claim such as laches, in the event it is necessary to proceed with an administrative hearing based on any part of or all of the Accusation for Case No. 2012-327.

2. Respondent shall pay \$8,682.25 to the Board of Registered Nursing as the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3. Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

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Exhibit A

Accusation No. 2012-327

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

13 **MARILYN RAMOS NERA**
14 **aka MARILYN RAMOS**
15 **aka MARILYN R. ANDERSEN**
117 North 5th St.
La Puente, CA 91744

ACCUSATION 2012-327

16 **Registered Nurse License No. 636526**

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing.

21 2. On or about April 26, 2004, the Board of Registered Nursing issued Registered Nurse
22 License Number 636526 to Marilyn Ramos Nera, also known as Marilyn Ramos, also known as
23 Marilyn R. Andersen ("Respondent"). The Registered Nurse License was in full force and effect
24 at all times relevant to the charges brought herein and will expire on January 31, 2012, unless
25 renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"), under
28 the authority of the following laws. All section references are to the Business and Professions

Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides in pertinent part:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code Section 2700 et seq.)]. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein."

5. Section 2764 of the Code provides:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

6. Section 118(b) of the Code provides, in pertinent part:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

STATUTORY PROVISIONS

7. Section 2761 of the Code provides in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:"

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

8. Section 2762 of the Code provides:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or

1 any dangerous drug or dangerous device as defined in Section 4022.

2 (b) Use any controlled substance as defined in Division 10 (commencing with
3 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
4 device as defined in Section 4022, or alcoholic beverages, to an extent or in a
manner dangerous or injurious to himself or herself, any other person, or the public
or to the extent that such use impairs his or her ability to conduct with safety to the
public the practice authorized by his or her license.

5 9. Section 4022 of the Code provides:

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
use in humans or animals, and includes the following:

7 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

8 (b) Any device that bears the statement: "Caution: federal law restricts this device
9 to sale by or on the order of a _____," "Rx only," or words of similar import, the
blank to be filled in with the designation of the practitioner licensed to use or order
use of the device.

10 (c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

11 REGULATORY PROVISIONS

12 10. California Code of Regulations, Title 16, section 1444, provides:

13 A conviction or act shall be considered to be substantially related to the
14 qualifications, functions or duties of a registered nurse if to a substantial degree it
15 evidences the present or potential unfitness of a registered nurse to practice in a
16 manner consistent with the public health, safety, or welfare. Such convictions or
acts shall include but not be limited to the following:

17 (a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

18 (b) Failure to comply with any mandatory reporting requirements.

19 (c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section
290 of the Penal Code.

20 COST RECOVERY

21 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Obtaining, Possessing, Administering, and Furnishing a Dangerous Drug)**

3 12. Respondent's registered nurse license is subject to discipline under Code sections
4 2761(a) and 2762(a) for unprofessional conduct because the Respondent obtained or possessed in
5 violation of law, or prescribed, or except as directed by a licensed physician, administered to
6 herself, or furnished or administered to another, any controlled substance or any dangerous drug
7 or dangerous device. The circumstances are as follows:

8 a. On or about November 9, 2008, while working as a registered nurse supervisor at a
9 convalescent hospital in the City of Industry, CA, the Respondent was observed taking a flu
10 vaccine vial from the medication room without authorization and then placing the flu vaccine vial
11 into her coat pocket. The Respondent subsequently admitted she obtained and possessed the flu
12 vaccine for her personal use because she felt ill.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Violating or Attempting to Violate the Nursing Practice Act)**

15 13. Respondent's registered nurse license is subject to discipline under Code sections
16 2761(d) and 2762(b) for unprofessional conduct because the Respondent violated or attempted to
17 violate the Nursing Practice Act by using a controlled substance or dangerous drug or dangerous
18 device. The circumstances are as follows:

19 a. Complainant refers to, and by this reference incorporates, the allegations set forth
20 above in paragraph 12 inclusive, as though set forth fully herein.

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PRAYER

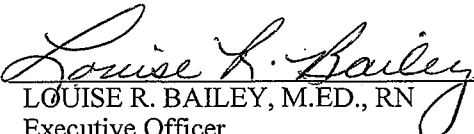
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 636526, issued to Respondent Marilyn Ramos Nera, also known as Marilyn Ramos, aka Marilyn R. Andersen;

2. Ordering Respondent Marilyn Ramos Nera, aka Marilyn Ramos, aka Marilyn R. Andersen to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: November 23, 2011


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
State of California
Complainant

LA2010600654/51014421.docx/11.2.2011

Exhibit B

Letter of Public Reproval in Case No. 2012-327



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing

P O Box 944210, Sacramento, CA 94244-2100

P (916) 322-3350 | www.rn.ca.gov

Louise R. Bailey, M.Ed., RN, Executive Officer



December 31, 2012

Marilyn Ramos Nera
117 North 5th Street
La Puente, CA 91744

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Marilyn Ramos Nera, aka Marilyn Ramos, aka Marilyn R. Andersen
Registered Nurse License No. 636526
Board of Registered Nursing Case No. 2012-327


Dear Marilyn Ramos Nera:

On November 23, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed Accusation No. 2012-327 against your registered nurse license. The accusation alleges that you are subject to disciplinary action for unprofessional conduct pursuant to Business and Professions Code Sections 2761(a) and 2762(a) because on November 9, 2008, while working as a registered nurse supervisor at a convalescent hospital, you took without authorization, a flu vaccine vial from the medication room. You then concealed the vial in your coat pocket and left the premises. After being confronted with this information, you admitted taking the flu vaccine for your personal use. The accusation also alleges a second cause for discipline for unprofessional conduct pursuant to Business and Professions Code Sections 2761(d) and 2762(b) for violating or attempting to violate the Nursing Practice Act based on the same incident.

The Board of Registered Nursing has taken into consideration the facts and circumstances of this case including that you have been licensed since 2004, that there are no known additional violations nor prior license discipline, the age of the offense, and your admission of the conduct. In addition, you have submitted evidence of successful completion of a legal and ethics course in February 2012. Combined, there exists mitigating circumstances in this case which support a determination that you are safe to practice registered nursing. Therefore, the Board of Registered Nursing has decided that the charges warrant a public reproof. Pursuant to Business and Professions Code section 125.3, you are ordered to pay \$8,682.25 to the Board of Registered Nursing as the reasonable costs of the investigation and enforcement of this case.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California